

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FAIR HOUSING JUSTICE CENTER, INC.,

Plaintiff,

-against-

ANSWER

Case No. 25-1256
(RER)(PK)

BROOKLYN BOULEVARD ALP LLC, QUEENS
BOULEVARD ALP, LLC, LOUISIANA PURCHASE
LLC, BOULEVARD ALP ASSOCIATES LLC,
MARX DEVELOPMENT GROUP, LLC, DAVID
MARX, AND FRANCES MARX,

Defendants.

Defendants, Brooklyn Boulevard ALP LLC, Queens Boulevard ALP, LLC, Louisiana Purchase LLC, Boulevard ALP Associates LLC, Marx Development Group, LLC, David Marx, and Frances Marx, by and through their attorneys, Hinman Straub P.C., as and for an answer to the plaintiff's complaint, allege as follows:

1. Admits the allegations and/or statements contained in paragraphs numbered 30, 31, 35, 38, 39, 40, 42, and 49 of the complaint, and refer all questions of law to the court.

2. Deny knowledge or information sufficient to form a belief as to the truth of the allegations and/or statements contained in paragraphs numbered 12, 13, 16, 21, 22, 23, 25, 26, 27, 56, 57, 58, 59, 60, 61, 62, 63, 64, 67, 68, 69, 70, 71, 72, 73, 74, 75, 78, 79, 81, 82, 83, 84, and 130 of the complaint, and refer all questions of law to the court.

3. With respect to the allegations contained in paragraphs numbered 1, 9, 10, 11, 14, 15, 17, 18, 19, 20, 32, 33, 36, 37, 41, 43, 44, 45, 46, 47, 48, 87, 100, 101, 102, 109, 114, 121, 122, and 123 of the complaint, defendants state that the allegations set forth conclusions of law to which no response is required, that the text of the statutes, regulations and other documents cited or quoted in the aforementioned paragraphs speak for themselves, and that to the extent a

response is required, deny knowledge or information sufficient to form a belief as to the truth of the statements contained therein, and refer all questions of law to the court.

4. Deny the allegations and/or statements contained in paragraphs numbered 2, 3, 4, 5, 6, 7, 8, 24, 29, 50, 51, 52, 53, 54, 55, 65, 66, 76, 80, 85, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 103, 104, 105, 106, 107, 108, 110, 111, 112, 115, 116, 117, 118, 119, 124, 125, 126, 127, 128, and 129 of the complaint, and refer all questions of law to the court.

5. With respect to the allegations and/or statements contained in paragraph numbered 28, 34, 77, and 99 of the complaint, defendants deny the allegations relating to the defendants' behavior, conduct, and/or representations, lack knowledge or information sufficient to form a belief as to the truth of the remainder of paragraphs 28, 34, 77, and 99, and refer all questions of law to the court.

6. Defendants' responses above are repeated in response to the allegations and/or statements contained in paragraphs numbered 86, 98, 113, and 120 of the complaint, as if fully set forth herein.

7. Defendants deny any other allegations of the complaint to which a specific response has not already been made.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE,
DEFENDANTS STATE AS FOLLOWS:

8. The plaintiff's complaint fails to state a claim upon which relief may be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE,
DEFENDANTS STATE AS FOLLOWS:

9. Plaintiff is barred from asserting some or all of the claims herein by the Doctrine of Laches, Waiver, Ratification, Estoppel, Unclean Hands, Acquiescence, Fraud and Mistake.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE,
DEFENDANTS STATE AS FOLLOWS:

10. Plaintiff's claims are barred, in whole or in part, by the applicable statutes of limitation.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE,
DEFENDANTS STATE AS FOLLOWS:

11. Some or all of the claims alleged in the complaint are based upon projected or speculative occurrences for which no cause of action has accrued.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE,
DEFENDANTS STATE AS FOLLOWS:

12. Upon information and belief, plaintiff has failed to mitigate its alleged damages.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE,
DEFENDANTS STATE AS FOLLOWS:

13. Some or all of the claims alleged in the complaint are barred because plaintiff's damages, if any, are due solely to its own actions and/or inactions, and/or the actions and/or culpable conduct of a third party.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE,
DEFENDANTS STATE AS FOLLOWS:

14. Defendants have not violated any rights, privileges, or immunities under the Constitution or laws of the United States or the State of New York, or any political subdivision thereof, nor have defendants violated any act of Congress providing for the protection of civil rights.

15. Accordingly, any actions of defendants complained of herein were in all respects lawful, proper and constitutional.

AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE,
DEFENDANTS STATE AS FOLLOWS:

16. Defendants were not motivated by an intention to discriminate on the basis of

impermissible considerations, to punish or inhibit the exercise of constitutional rights by plaintiff, or anyone else.

AS AND FOR A NINTH AFFIRMATIVE DEFENSE,
DEFENDANTS STATE AS FOLLOWS:

17. Defendants deny that they are liable to plaintiff in any respect, and assert as additional defenses the following, without assuming the burden of proof with respect to any defense or issue not explicitly imposed upon defendants by law.

18. All actions taken by defendants were taken in good faith, without malice, and without intention to injure or discriminate against any person.

19. Plaintiff has failed to set forth any individual discriminated against by defendants as a result of an alleged disability as defined by New York State or Federal Law.

AS AND FOR A TENTH AFFIRMATIVE DEFENSE,
DEFENDANTS STATE AS FOLLOWS:

20. The alleged actions of defendants were justified and not unlawful because they protected against a direct threat to the health or safety of other individuals or other substantial physical damages to the property of others.

AS AND FOR A ELEVENTH AFFIRMATIVE DEFENSE,
DEFENDANTS STATE AS FOLLOWS:

21. Plaintiff, Fair Housing Justice Center, has not sustained an injury in fact, and makes no claim of damages sufficient to establish a cause of action against defendants.

AS AND FOR A TWELFTH AFFIRMATIVE DEFENSE,
DEFENDANTS STATE AS FOLLOWS:

22. The complaint is subject to dismissal, in whole or in part, because the relief sought by plaintiff would not be a reasonable accommodation, and would constitute a fundamental alteration of defendants' programs, services and activities.

AS AND FOR A THIRTEENTH AFFIRMATIVE DEFENSE,
DEFENDANTS STATE AS FOLLOWS:

23. The proposed accommodations requested by plaintiff would be significantly difficult or expensive, considering the size, resources and circumstances of defendants' programs. Accordingly, the proposed accommodations would create an undue burden and hardship to defendants.

AS AND FOR A FOURTEENTH AFFIRMATIVE DEFENSE,
DEFENDANTS STATE AS FOLLOWS:

24. Defendants operate under an operating certificate awarded by the New York State Department of Health and are required, at all times, to operate in accordance with the regulations promulgated by the State of New York.

25. Defendants are licensed by the New York State Department of Health as an adult care facility and, as such, have admission and retention requirements pursuant to New York State regulations.

26. Accordingly, any actions of defendants complained of herein were in all respects lawful, proper, and authorized by statute and regulation.

AS AND FOR A FIFTEENTH AFFIRMATIVE DEFENSE,
DEFENDANTS STATE AS FOLLOWS:

27. Plaintiff has failed to exhaust available administrative remedies under federal and New York human rights agencies.

RESERVATION OF RIGHTS

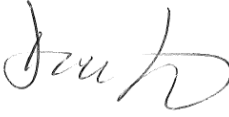
Defendants reserve the right to assert additional defenses, as well as any counterclaims, in the event discovery indicates it would be appropriate to do so.

WHEREFORE, defendants respectfully request the following:

1. Judgment dismissing the claims set forth in the complaint; and
2. Any such other and further relief as the court deems just and proper.

Dated: Albany, New York
May 13, 2025

HINMAN STRAUB P.C.

By: 
David T. Luntz

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